

REMARKS

A restriction requirement issued under 35 U.S.C. § 121 identified two inventions: Group I (claims 2-4, 6-10, 13, and 15-19); and Group II (claims 20-24, 26, 28, 30-32, 37, and 38). Applicant elects, with traverse, the invention of Group II (which includes claims 20-24, 26, 28, 30-32, 37, and 38).

The Office Action identified Groups I and II as being related as “subcombinations disclosed as usable together in a single combination,” where the subcombinations are distinct from each other. 10/31/2005 Office Action at 2. The Office Action further stated that the invention of Group I has separate utility “such as detecting an error in control signaling transmitted over a reverse link when traffic channels are not being communicated in the reverse link.” *Id.* Citing M.P.E.P. § 806.05(d), the Office Action stated that the restriction was proper.

It is respectfully submitted that the Office Action has failed to establish that restriction is proper pursuant to M.P.E.P. § 806.05(d). As provided by the M.P.E.P., “[t]he examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination.” M.P.E.P. § 806.05(d), at 800-46. Here, all that was provided in the Office Action is the recitation of language at lines 3-5 of claim 4 to support the restriction requirement. Reciting language from claim 4 does not satisfy the requirement of the M.P.E.P. that an example must be shown that one subcombination has utility other than in the disclosed combination. In fact, the Office Action does not even identify what constitutes the disclosed combination of which the subcombinations are part.

Moreover, another criterion for restriction between inventions is that there “would be a serious burden on the examiner if restriction is not required.” M.P.E.P. § 803, at 800-4. Here, there clearly does not exist any serious burden on the Examiner if restriction was not required. To date, there have been **five Office Actions** issued in this case, and **an Appeal Brief** has been submitted by Applicant. The Examiner has performed searches against each of independent claims 4, 20, and 30 in all of the Office Actions. Given that the Examiner has already conducted examination of these claims in five separate office actions, there would not be a serious burden on the Examiner in continuing to examine all pending claims together.

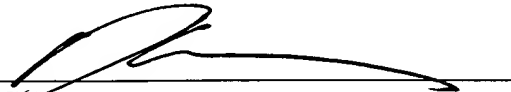
In view of the foregoing, it is respectfully requested that the restriction requirement be withdrawn.

No fees are believed to be due as a result of this reply. However, the Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRT.0031US).

Respectfully submitted,

Date: _____

11/30/2008



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